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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,411	12/29/2003	Paula M. Sosalla	19,682	7552
23556	7590	09/27/2006		
KIMBERLY-CLARK WORLDWIDE, INC. 401 NORTH LAKE STREET NEENAH, WI 54956			EXAMINER HAND, MELANIE JO	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/748,411

Applicant(s)

SOSALLA ET AL.

Examiner

Melanie J. Hand

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments, see Remarks, filed June 30, 2006, with respect to the rejection(s) of claim(s) 1-4, 6-9, 12 18-21 and 14-24 under 35 U.S.C. 102 and claims 5, 10, 11, 13-17 and 22 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of a newly found prior art reference.

### *Declaration under 35 U.S.C. 131*

The declaration filed on June 30, 2006 under 37 CFR 1.131 is sufficient to overcome the Davis reference.

### *Claim Rejections - 35 USC § 102*

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action:

Claims 1-4, 6-9, 12 18-21 and 14-24 rejected under 35 U.S.C. 102(e) as being anticipated by Driskell et al (U.S. Patent Application Publication No. 2005/0065489).

With respect to **Claims 1-4,18-21,23,24**: Driskell teaches diaper 10 having an exterior article surface and an interior article surface and having longitudinal axis 100 and transverse axis 102, outer cover 12 having an interior surface and an exterior surface opposite the interior surface, absorbent core 16 disposed between outer cover 12 and bodyside liner 14 and wetness sensation member 18 comprised of an active graphic, either appearing or fading upon contact

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with urine, located on an interior article surface (§ 0018). The interior article surface is provided at least in part by said bodyside liner.

With respect to **Claims 5,22**: Bodyside liner 14 defines an interior liner surface and an exterior liner surface opposite said interior liner surface. Wetness sensation member 18 is located on the interior article surface and thus is also located on the exterior liner surface.

With respect to **Claim 7**: Driskell teaches additional layers including a surge layer.

With respect to **Claims 8,9**: Driskell teaches a front waist edge, a back waist edge and an article length in the longitudinal direction. The wetness sensation member 18 is located in a generally central region of the article therefore the wetness sensation member 18 would be longitudinally spaced from the front waist region by a distance equal to between 25-60% of the article's length.

With respect to **Claim 12**: Driskell teaches additional graphics to those of wetness sensation member 18, therefore Driskell teaches a plurality of interior graphics.

With respect to **Claims 14-17**: Driskell teaches at least one exterior graphic located on the outer surface of outer cover 26 disposed on the exterior article surface. The at least one exterior graphic comprises a plurality of exterior graphics, wherein at least one said plurality of exterior graphics is an active graphic, specifically a fading graphic. The at least one exterior graphic is interrelated with other exterior graphics by theme, as are the additional interior graphics to the exterior graphics.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 6, 10, 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Driskell ('489).

With respect to **Claim 6**: Driskell teaches that there are additional active graphics to wetness indicator member 18 and additional layers to those explicitly taught, therefore Driskell implicitly teaches an additional, interior graphic layer. Driskell does not explicitly teach that the interior graphic layer is disposed between the absorbent core 16 and the bodyside liner 14, however since Driskell teaches that the graphics can be located on layers other than the outer cover, it would be obvious to one of ordinary skill in the art to include an interior graphic layer between the absorbent core and bodyside liner 14, as then the wetness indicator 18 would be in operative relationship with the absorbent core, and the ink from the graphic would be absorbed along with the urine into the core so as not to cause staining visible from the outside.

With respect to **Claims 10,11,13**: Driskell does not explicitly teach a total interior graphic area, however Examiner asserts that, since the graphics serve only to indicate the area of the wetness sensation member, choosing a specific value would only constitute an optimization which is unpatentable over the prior art of Driskell. It has been held that where general conditions of claim are disclosed in prior art, it is not inventive to discover optimum or workable ranges by routine experimentation. See *In re Aller, Lacey and Hall* (105 USPQ 233, CCPA, 1955).

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand  
Examiner  
Art Unit 3761

MJH  
September 15, 2006

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER

